

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Bowen Analyst: Roger Lackey Bill Number: SB 1016

Related Bills: See Prior Analysis Telephone: 845-3627 Amended Date: 07-07-99

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Employee Records/Prohibits Employers From Secretly Monitoring Employees E-mail Or Other Personal Computer Records

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended May 27, 1999.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO Neutral.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED May 27, 1999, STILL APPLIES.

OTHER - See comments below.

### SUMMARY OF BILL

This bill would provide that an employer may not secretly monitor the electronic mail or any other personal computer records generated by an employee.

This bill would require that an employer who intends to inspect, review, or retain any personal electronic mail or any other personal computer records notify its employees of its electronic monitoring policies and practices and require its employees to sign a statement acknowledging that the employee has received, read, and understood the employer's electronic monitoring policies and practices.

### SUMMARY OF AMENDMENT

The July 7, 1999, amendments would provide that if an affected employee refuses to sign or electronically verify that he or she has read, understood, and acknowledged receipt of the employer's electronic monitoring policies and practices, the employer may comply with the requirements of this bill by having the person who presented the employee with the employer's policies and practices sign and retain a statement to that effect and provide a copy of that statement to the affected employee.

Except for the discussion above and the new Board position, the department's analysis of SB 1016 as amended May 27, 1999, still applies. The department's remaining implementation concern is provided below for convenience.

### IMPLEMENTATION CONSIDERATIONS

This bill would ensure an employee's right to review any data pertaining to the employee, as provided for in Labor Code Section 1198.5. However, Section 1198.5 of the Labor Code does not apply to the state and state agencies.

#### Board Position:

<u>      </u> S	<u>      </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>  X  </u> N	<u>      </u> OUA	<u>      </u> PENDING

Department/Legislative Director Date

Johnnie Lou Rosas 7/21/1999

Thus, an employee of the state or a state agency would not have a right to inspect the personal information described in Section 1198.5 of the Labor Code. As a result, a state agency would not have to include a provision in its workplace privacy and electronic monitoring policies and practices that would provide for access to the personal information described in Section 1198.5 of the Labor Code. It is unclear whether the author intended to make distinctions between types of employers.

BOARD POSITION

Neutral.

At its July 6, 1999, meeting, the Franchise Tax Board voted 2-0 to be neutral on this bill.